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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the First Amended Accusation
Against:

Case No. 2011-727

OAH No. 2011040630

12 **ROLANDO GUIANG, a.k.a. ROLANDO**
13 **DONATO GUIANG**
2543 Glen Dundee Way
14 San Jose, CA 95148
Registered Nurse License No. 605280

FIRST AMENDED
ACCUSATION

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this First Amended Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs.

23 2. On or about August 27, 2002, the Board of Registered Nursing issued Registered
24 Nurse License Number 605280 to Rolando Guiang, also known as Rolando Donato Guiang
25 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
26 the charges brought in this First Amended Accusation and will expire on July 31, 2012, unless
27 renewed.
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1 related to the qualifications, functions, or duties of the business or profession for which the
2 license was issued.

3 9. California Code of Regulations, title 16, section 1444, states in pertinent part:

4 "A conviction or act shall be considered to be substantially related to the qualifications,
5 functions or duties of a registered nurse if to a substantial degree it evidences the present or
6 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
7 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

8 "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
9 subdivision (d) of Penal Code Section 11160."

10 COST RECOVERY

11 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licensee found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case.

15 FIRST CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct)

(Bus. & Prof. Code § 2761, subd. (a))

17 11. Respondent has subjected his registered nurse license to disciplinary action under
18 Code section 2761, subdivision (a), in that he engaged in unprofessional conduct when he
19 battered his spouse. The circumstances are as follows:

20 12. On or about November 11, 2009, at approximately 10:03 p.m., Respondent's wife
21 (V1) called the San Jose Police Department from a friend's house to file a report of domestic
22 violence. An officer from the San Jose Police Department, Officer 1, was dispatched to the home
23 of V1's friend to investigate. At the time of the incident, V1 had been married to Respondent for
24 11 months and they had an 8 month old child together. V1 explained to the Officer 1 that at
25 approximately 9:00 p.m. that evening, Respondent and V1 were at their home in San Jose.
26 Respondent was drinking alcohol and he became upset with V1. Respondent and V1 began to
27 argue and V1 attempted to leave their residence and go to her parents' house. Respondent
28 grabbed V1 by the shoulders while she was holding their child and forced her onto the floor.

1 Respondent then punched V1 in the left eye area, and V1 began screaming. Respondent covered
2 V1's mouth and told her that he was going to kill her. Respondent stood up and V1 managed to
3 stand up and grab her cell phone. As V1 was attempting to call 9-1-1, Respondent grabbed her
4 cell phone and threw it into another room. V1 went to the refrigerator to retrieve their child's
5 milk, and Respondent slammed the refrigerator door on her head twice. Respondent then
6 punched V1 in the back area approximately seven times. Respondent walked away and V1 was
7 able to leave their residence and get into her vehicle with their child. V1 told Officer 1 that she
8 feared for her life when Respondent threatened her. Another officer, Officer 2, noticed redness
9 on V1's back and took several photos of V1's injuries. Officer 2 also felt several bumps on V1's
10 head. V1 refused medical attention for herself and her child.

11 13. Another San Jose Police officer, Officer 3, was dispatched to Respondent's residence
12 at approximately 11:00 p.m. on or about November 11, 2009. Officer 3 arrived at Respondent's
13 residence in San Jose, California and arrested Respondent for domestic violence. Respondent
14 was transported to jail for processing. After waiving his Miranda rights, Respondent initially
15 claimed that he did not remember what happened between him and V1. He then admitted to
16 Officer 3 that he and V1 had gotten into an argument and that he grabbed V1 in order to prevent
17 her from leaving. Respondent did not remember whether he struck V1 repeatedly on the head.
18 Respondent admitted that he closed the refrigerator door on V1, yet he claimed that he did not
19 recall closing the refrigerator door on her head. Respondent also admitted that he threw V1's cell
20 phone while she was trying to use it, but he stated that he did not know who she was calling, or if
21 she was calling 9-1-1.

22 SECOND CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct – Conviction)

24 (Bus. & Prof. Code §§ 490, 2761, subd. (f); Cal. Code Regs, tit. 16, § 1444)

25 14. Complainant realleges the allegations contained in paragraphs 11 through 13 above,
26 and incorporates them as if fully set forth.

27 15. Respondent has subjected his registered nurse license to disciplinary action under
28 Code section 490 and Code section 2761, subdivision (f), within the meaning of California Code

1 of Regulations, title 16, section 1444, subdivision (a), in that in that he was convicted of a crime
2 involving assaultive or abusive conduct, which is substantially related to the qualifications,
3 functions, and duties of a registered nurse. The circumstances are that on or about August 5,
4 2010, in a criminal matter entitled *The People of the State of California v. Rolando Donato*
5 *Guiang*, in the Santa Clara County Superior Court, Case Number CC961899, Respondent was
6 convicted by plea of nolo contendere of one count of violating Penal Code section 242 and Penal
7 Code section 243, subdivision (e) (battery on a spouse), a misdemeanor. Respondent was
8 sentenced to three years of formal probation and ordered to complete 20 hours of volunteer work.
9 Respondent was further ordered to complete a domestic violence program, not own or possess
10 deadly weapons, have only peaceful contact with the victim, and pay various fees and fines.

11 THIRD CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct)

13 (Bus. & Prof. Code § 2761, subd. (a))

14 16. Respondent has subjected his registered nurse license to disciplinary action under
15 Code section 2761, subdivision (a), in that he engaged in unprofessional conduct when he
16 battered his spouse. The circumstances are as follows:

17 17. On or about August 8, 2010, at approximately 6:02 p.m., officers from the San Jose
18 Police Department were dispatched to Respondent's residence in San Jose, California based on a
19 an anonymous caller's report of a family disturbance. The caller reported that there was an Asian
20 woman screaming outside of Respondent's residence and that there was a small child inside of the
21 residence. Respondent's wife (V1) also called the police and stated that Respondent hit her,
22 would not let her leave, and had a knife to her back. When San Jose Police Department officers
23 arrived on-scene, they spoke with V1 who explained that she and Respondent had been drinking
24 alcohol and watching their son play. Respondent subsequently became verbally abusive towards
25 V1 and she went upstairs to get away from him. Respondent followed V1 upstairs. After some
26 yelling and arguing, Respondent slapped V1's lower legs while she was standing. V1 threw
27 something at Respondent, and he pushed her to the ground with both hands while she was holding
28 their one-year-old child. Respondent then broke V1's cell phone, preventing V1 from calling the

1 police. V1 went downstairs and obtained Respondent's cell phone, which she used to called the
2 police. When officers arrived, V1 complained of pain to her shins, right shoulder, and right wrist.
3 V1 told officers that she feared for her safety due to both reported and un-reported incidents of
4 domestic violence. Respondent was crying and was suspected to be under the influence of
5 alcohol. Respondent was taken into custody.

6 FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Conviction)

7 (Bus. & Prof. Code §§ 490, 2761, subd. (f); Cal. Code Regs, tit. 16, § 1444)

8 18. Complainant realleges the allegations contained in paragraphs 16 and 17 above, and
9 incorporates them as if fully set forth.

10 19. Respondent has subjected his registered nurse license to disciplinary action under
11 Code sections 490 and 2761, subdivision (f), within the meaning of California Code of
12 Regulations, title 16, section 1444, subdivision (a), in that in that he was convicted of a crime
13 involving assaultive or abusive conduct, which is substantially related to the qualifications,
14 functions, and duties of a registered nurse. The circumstances are that on or about March 29,
15 2011, in a criminal matter entitled *The People of the State of California v. Rolando Donato*
16 *Guiang*, in the Santa Clara County Superior Court, Case Number C1085517, Respondent was
17 convicted by plea of nolo contendere of one count of violating Penal Code section 273.6,
18 subdivision (a) (violation of protective order – specified behavior, do not strike and do not disturb
19 the peace), a misdemeanor. Respondent was sentenced to 90 days in jail and 3 years of formal
20 probation. Respondent was also ordered to complete a domestic violence program and ordered to
21 pay various fees and fines.

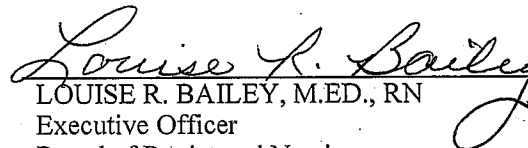
PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this First Amended Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 605280, issued to Rolando Guiang, also known as Rolando Donato Guiang;
2. Ordering Rolando Guiang, also known as Rolando Donato Guiang to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

5/5/11


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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